

S/L 2
22.08.2024
Court. No. 551
Sourav

WPA 1340 of 2014

**Tirthendu Ghosh
Vs.
Eastern Coalfields Ltd. & Ors.**

*Mr. Ajay Debnath
Ms. Siya Bose*

...for the petitioner.

Mr. Bijoy Kumar

...for the respondents.

1. In this writ petition as filed under Article 226 of the Constitution of India, the writ petitioner has prayed for issuance of appropriate writ against the respondents for quashing the reasoned order dated 12.09.2013 as passed by the respondent no. 2/authority.
2. It is pertinent to mention herein that in an earlier round of litigation, a co-ordinate Bench vide its order dated 01.07.2013 as passed in WP No. 11014 (W) of 2013 directed the respondent authorities to consider the representation of the present writ petitioner after giving an opportunity of hearing to the writ petitioner. Pursuant to such order, the respondent no. 2/authority being the General Manager of the respondent no. 1/authority passed the aforesaid order under challenge whereby the respondent no. 2/authority found that the writ petitioner does not come under the consideration zone to claim employment under Land Loser Scheme.
3. In course of his argument, Mr. Debnath, learned advocate for the writ petitioner at the very outset draws attention of this Court to Page Nos. 30 to 45 of the

instant writ petition being the photocopies of registered deeds of conveyances. It is submitted that by those registered deeds of conveyance dated 26.03.2001 as registered on 29.03.2001, portions of plot nos. 356, 992, 394 and 399 in Mouza – Kendra Khottadihi totaling to 0.58 acre of land was transferred to the respondent no. 1/authority.

4. Drawing attention to Page No. 64 to 70, it is further submitted by Mr. Debnath that thereafter by executing separate deeds of conveyance, the close relatives of the present petitioner transferred lands in the aforesaid plots as well as in other plots totaling to 2.05 acres in favour of the respondent no. 1/authority. It is further submitted by Mr. Debnath that the father of the writ petitioner and the other vendors who are the close relatives of the writ petitioner, jointly nominated the present petitioner to get employment from the respondent no. 1/authority under the Land Loser Scheme.
5. In course of his argument, Mr. Debnath also places his reliance to Page Nos. 119 and 120 of the writ petition being the Employment Scheme in respect of the land losers as published by the respondent no. 1/authority. It is submitted that from Page Nos. 55A, 46, 47 and 71 of the writ petition, it would reveal that prior to the purchase of the aforementioned land from the father of the writ petitioner as well as from the relatives of the writ petitioner, the respondent no.1/authority started using the said land without taking any permission from

the actual owners of the said land and when the writ petitioner's predecessor-in-interest as well as other relatives made correspondence with the respondent no. 1/authority, they did not care to give any reply to such query. It is further submitted by Mr. Debnath, learned advocate for the writ petitioner that from the correspondences as has been relied upon in the writ petition on affidavit, it would reveal that exchange of notes have been made by the responsible officers of the respondent no. 1/authority to consider the case of the writ petitioner as a special case since there lies vacancy under the aforementioned Scheme even after grant of employment to three persons under the said Scheme.

6. On being asked by this Court, Mr. Debnath, learned advocate for the writ petitioner candidly admits that he is unable to produce the previous chain of title deeds in respect of the transferred lands since those lands are all ancestral lands. It is, however, submitted by Mr. Debnath that from the note-sheets of the officers of the respondent no. 1/authority, it would reveal clearly that the predecessor-in-interest and the other relatives are the owners of the aforementioned 2.05 acres of land which have been purchased by the ECL but no employment was given to the writ petitioner under the aforementioned Scheme.
7. Per contra, Mr. Bijoy Kumar, learned advocate for the respondents at the very outset draws attention of this Court to the Page No. 56A of the writ petition vis-à-vis Page Nos. 6 and 9 of the affidavit-in-opposition as filed

on behalf of the respondents. It is submitted that while considering the case of the writ petitioner, it has been ascertained by the respondent no. 1/authority that the present petitioner cannot come under the consideration zone in view of the fact that the predecessor-in-interest of the present petitioner purchased the transferred land in-question vide deed no. 042/1992 in the year 1992 and hence, the ownership of the predecessor-in-interest of the writ petitioner was less than three years which is below the qualifying period for coming under the zone of consideration. Mr. Kumar, learned advocate for the respondents thus submits that in view of such, there is no requirement for interference with the finding of the respondent no. 2/authority which is under challenge before this Court.

8. On perusal of the entire materials as placed before this Court and after hearing the learned advocate for the contending parties, it reveals to this Court that for effective adjudication of the instant *lis*, a look to the relevant Scheme is necessary which has been annexed in the writ petition at Page Nos. 119 and 120.
9. On perusal of the Page No. 119 of the writ petition which is a copy of letter dated 18.06.1994, it appears to this Court that the General Manager, L.R. of the respondent no. 1/Company issued a circular/guideline to all the General Managers of the respondent no. 1/Company stating, *inter alia*, that for land used after 13.08.1983, the essential criteria is that on the date of use of the land, the land loser must have at least five

years ownership over the land and the nominees should be linear dependent of the land loser. It is undisputed that the said time limit has been reduced to three years and it is equally undisputed that the present writ petitioner is the linear descendent as well as dependent of the original land loser, Patit Pawan Ghosh and others.

10. Keeping in mind the provisions of aforementioned Scheme, if I look to the materials as placed before this Court, it reveals that admittedly a substantial portion of land amounting to 2.05 acres were transferred in the year 2001 as well as on subsequent years in favour of the respondent no. 1/authority either by the father of the writ petitioner or by his relatives. Materials have been placed that the vendors of the said deed have nominated the present writ petitioner for his employment. Materials have also been placed before this Court on behalf of the writ petitioner that there were exchange of letters and correspondences by and between the officers of the respondent no. 1/authority for considering the case of the writ petitioner as a special case under the Land Loser Scheme.
11. However, the most pertinent question which is involved in this writ petition in considered view of this Court is as to whether the writ petitioner comes under the consideration zone to get the benefit of the aforementioned Scheme and further whether the writ petitioner before this Court is successful in establishing that either he or his predecessor-in-interest or his

relatives being the vendors of the aforementioned deeds are the owners of the said transferred lands for at least three years prior to such transfers.

12. In course of his argument, Mr. Debnath was very vocal with regard to the user of the aforementioned lands by the respondent no. 1/authority even prior to purchase of those lands but on behalf of the writ petitioner, nothing could be shown that those lands have been purchased at least three years prior to the execution of the said deed of conveyance. This Court is not unmindful to the argument of Mr. Debnath, learned advocate for the writ petitioner that those lands are not purchased lands and on the contrary, those has been inherited by the vendors from their forefathers.
13. At this juncture, if I again look to the Scheme at Page Nos. 119 and 120, it reveals that the said Scheme says about the ownership of the land for at least five years (subsequently which has been reduced to three years).
14. In considered view of this Court in order to show the ownership of the aforementioned lands, production of the previous title deeds may not be mandatory. The writ petitioner could have produced any record of rights and/or any other document of possession either of the vendors or of their predecessors-in-interest in respect of the aforementioned transferred lands. Unfortunately, no such documents have been produced before this Court at least to show user and/or possession of the aforementioned transferred lands either by the said

vendors or by their predecessors-in-interest on behalf of the writ petitioner.

15. Such being the position, this Court is of the considered view that the writ petitioner has miserably failed to discharge his burden to prove that he comes under the zone of consideration of the aforementioned Scheme so as to enable him to get the benefit of the said Scheme.
16. This Court thus finds that by issuing the letter under challenge dated 12.09.2013 no fundamental right, not even a constitutional right of the writ petitioner has been violated for which the interference of this writ Court is necessary.
17. With the aforementioned observations, the writ petition being **WPA 1340 of 2014** is hereby dismissed.
18. There shall be, however, no order as to costs.
19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)